IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 435 OF 200.6.

Trimbak Mahadu Pagar. ... Appellant.

Versus.

Namdeo Vitthal Pagara & others. ... Respondents.

Shri A.S.Rao for the Appellant.

Shri G.S.Godhole for the Respondents Nos.1 to 4.

CORAM : ABHAY S.OKA, J.

DATED : 21st July, 2006.

P.C.:

1. Heard Shri Rao appearing for the Appellant. The Second Appeal is by the original Plaintiff. The decree for perpetual injunction passed by the trial Court in favour of the Appellant has been set aside by the Appellate Court.

2. Shri Rao appearing for the Appellant submitted that the Appellate Court was wrong in observing that the Appellant did not step into the witness box. He pointed out that the Appellant has examined his son and one independent witness who have established possession of the Appellant over the suit property. He, therefore, submitted that there was no reason for the Appellate Court to interfere with the decree passed by the trial Court.

3. I have considered the submissions. The Appellate Court has noted the admitted position that Vitthal was the owner of the suit land. The Appellant

Court noted that the Appellant has not explained as to how he became the owner of the suit land. The Appellant relied upon the receipt dated 21st May 1964. The Appellant's son was examined on his behalf. He was born on 26th May 1967 and therefore, he could not have proved the said receipt in evidence. The Appellate Court has relied upon the revenue records which show the entries in the name of the Respondents.

4. The findings of the Appellate Court are based on appreciation of oral and documentary evidence on record. No substantial questions of law arises in the Second Appeal. The Second Appeal is accordingly dismissed.

Judge.